

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

April 1, 2008

3:30 P.M. SCHEDULED SESSION

3:39 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Harold Collins, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland and Chairman Scott McCormick
Barbara Swearengen Ware was absent

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Pastor Angelo Conway from United Community Outreach Worship Center. Councilman Morrison presented Pastor Conway with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

29. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE SOUTHWEST CORNER OF EAST PARKWAY SOUTH AND WALKER AVENUE, CONTAINING 0.55 ACRE IN THE LOCAL COMMERCIAL (C-L) DISTRICT.**

Case No. SUP 08-203

Held until May 6, 2008

MINUTES

Approval of the Minutes of the regular meeting of March 18, 2008 with the following motion:

MOTION: Collins
SECOND: Halbert
AYES: Boyd, Collins, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland and
Chairman McCormick
Brown, Flinn and Lowery did not cast a vote
Ware was absent

APPROVED

CONSENT AGENDA – Items 1 - 5 may be acted upon by one motion: SEE PAGE 2469 FOR ROLL CALL

1. **ORDINANCE AMENDING PREVIOUS ORDINANCE 4388, CODIFIED AS CITY CODE, TITLE 6, CHAPTER 6-92, SECTION 6-92-1. ET SEQ., SO AS TO REVISE SECTION 6-92-11, SUBSECTION (A) TO ALLOW SAID TITLE 6, CHAPTER 6-92 TO REMAIN IN FULL AND EFFECT UNTIL SEPTEMBER 23, 2008, UP FOR F I R S T READING.**

Ordinance No. 5258

APPROVED, on First reading

2. **ORDINANCE TO AMEND CHAPTER 2, ARTICLE XI, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO ADD AN ANNUAL ADJUSTMENT TO THE LIVING WAGE, UP FOR S E C O N D READING.**

Ordinance No. 5257

APPROVED, on Second reading

3. **RESOLUTION ACCEPTING SCENIC HILLS SUBDIVISION SECTION B THIRD AMENDMENT, AND AUTHORIZING RELEASE OF BOND.**

(Contract No. CR-114)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located north of Whitney Avenue and west of New Allen Road. The standard improvement contract was approved on July 19, 1988. Resolution also authorizes the release of the Letter of Credit and the time certificate of deposit totaling \$33,200.00.

City Engineer recommends approval

APPROVED

4. **RESOLUTION APPROVING FINAL PLAT OF FEDEX HEADQUARTERS MEDIAN MODIFICATION.**

Contract No. CR-5105

Resolution approves the final plat located on the Avenue of commerce, north of Winchester Road. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

5. NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:

- A. Case No. PD 07-332 – Airways Industrial P.D.
- B. Case No. UV 08-03

Public Hearing Set for April 15, 2008

ROLL CALL CONSENT ITEMS

MOTION: Collins
SECOND: Ford
AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman McCormick
Brown did not cast a vote
Ware was absent

APPROVED

MLGW FISCAL CONSENT – Items 6-12 may be acted upon by one motion:

- 6. RESOLUTION APPROVING CHANGE NO. 5 TO CONTRACT NO. 11016, DRUG AND ALCOHOL COLLECTION PROVIDER, WITH TRUE TEST COLLECTION IN THE FUNDED AMOUNT OF \$28,000.00. (THIS RENEWS THE CONTRACT FOR THE THIRD RENEWAL TERM, MAY 6, 2008 THROUGH MAY 5, 2009.)**

APPROVED

- 7. RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 11097, GROUNDS AND LANDSCAPING SERVICES, WITH ENVIRONMENTAL LANDSCAPE IN THE FUNDED AMOUNT OF \$74,997.00. (THIS RENEWS THE CONTRACT FOR THE SECOND RENEWAL TERM, APRIL 5, 2008 TO APRIL 4, 2009.)**

APPROVED

8. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11164, ASSESSMENT OF POLYCHLORINATED BIPHENYLS CONTAMINATION, WITH CENTER FOR TOXICOLOGY AND ENVIRONMENTAL HEALTH, LLC, IN THE FUNDED AMOUNT OF \$400,000.00. (THIS RENEWS THE CONTRACT FOR THE FIRST RENEWAL TERM, APRIL 20, 2008 THROUGH APRIL 19, 2009.)**

APPROVED

9. **RESOLUTION APPROVING CHANGE NO. 1 TO CONTRACT NO. 11190, MOWING/GROUNDS MAINTENANCE WELL LOTS, WITH BEAN & PRINCE CONTRACTORS, INC. IN THE FUNDED AMOUNT OF \$59,608.69. (THIS RENEWS THE CONTRACT FOR THE FIRST RENEWAL TERM, MAY 17, 2008 TO MAY 16, 2009.)**

APPROVED

10. **RESOLUTION AWARDDING CONTRACT FOR DATA WAREHOUSE SOFTWARE TO INFOSOL, INC. IN THE AMOUNT OF \$36,160.00.**

APPROVED

11. **RESOLUTION AWARDDING CONTRACT FOR NATURAL GAS ODORANT TO ARKEMA, INC. IN THE AMOUNT OF \$108,000.00.**

APPROVED

12. **RESOLUTION APPROVING PAYMENT OF 2008 ANNUAL PIPELINE SAFETY INSPECTION FEE TO TENNESSEE REGULATORY AUTHORITY IN THE AMOUNT OF \$78,000.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Halbert
SECOND: Strickland
AYES: Boyd, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland and Chairman McCormick
Brown and Collins did not cast a vote
Ware was absent

APPROVED

33. **RESOLUTION COMMENDING THE FAIRLEY HIGH SCHOOL MARCHING BAND.**

MOTION: Ford

SECOND: Fullilove

APPROVED, by unanimous voice vote

32. **RESOLUTION THANKING JUDITH DRESCHER FOR HER DEDICATED SERVICE TO THE MEMPHIS PUBLIC LIBRARY SYSTEM AND THE CITIZENS OF MEMPHIS.**

MOTION: Boyd

SECOND: Strickland

APPROVED, by unanimous voice vote

34. **RESOLUTION CONGRATULATING THE UNIVERSITY OF MEMPHIS TIGERS MEN'S BASKETBALL TEAM.**

MOTION: Collins

SECOND: Ford

APPROVED, by unanimous voice vote

35. **RESOLUTION COMMEMORATING APRIL 4TH, THE ANNIVERSARY OF THE ASSASSINATION OF REV. DR. MARTIN LUTHER KING.**

MOTION: Collins

SECOND: Halbert

APPROVED, by unanimous voice vote

13. **APPOINTMENTS**

MEMPHIS AND SHELBY COUNTY MUSIC COMMISSION

Appointments

Tonya D. Butler

Jeffrey D. Lee

MEMPHIS AND SHELBY COUNTY PARKING AUTHORITY

Reappointment

Odell Horton, Jr.

MOTION: Flinn

SECOND: Ford

AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland,
and Chairman McCormick
Brown and Lowery did not cast a vote
Ware was absent

APPROVED

14. **ORDINANCE TO AMEND CABLE FRANCHISE ORDINANCE NO. 4159, GRANTING AOL TIME WARNER, INC., AN EXTENSION OF ITS FRANCHISE ORDINANCE THROUGH DECEMBER 16, 2008, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5255

MOTION: Morrison – Move a Substitute Ordinance which reflects a name change from Time Warner to Comcast
SECOND: Brown
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman McCormick
Ware was absent

APPROVED, as amended

15. **ORDINANCE AMENDING SUBSTITUTE ORDINANCE NO. 5046 TO EXPAND THE DEFINITION OF EMERGENCY IN ORDER TO PERMIT MLGW TO PROMPTLY RESPOND TO SAFETY AND REGULATORY COMPLIANCE ISSUES AND TO ENTER INTO TIME SENSITIVE NATURAL GAS PURCHASES AND DERIVATIVE INSTRUMENTS, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5256

MOTION: Morrison
SECOND: Boyd
AYES: Boyd, Collins, Flinn, Ford, Halbert, Hedgepeth, Lowery, Strickland and Chairman McCormick
NAYS: Brown
Fullilove and Morrison did not cast a vote
Ware was absent

APPROVED

16. **RESOLUTION AMENDING THE FY 08 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING A PREVIOUS ALLOCATION OF \$250,000.00 FUNDED BY G.O. BONDS-GENERAL FROM THE NORTH MAIN TOWNHOMES PROJECT, CD01073 TO GENESIS ESTATES, CD01063, FOR CONTRACT CONSTRUCTION (INFRASTRUCTURE IMPROVEMENTS) TO THE GENESIS ESTATES SUBDIVISION TO DEVELOP 56 UNITS OF MIDDLE INCOME HOUSING.**

MOTION: Ford

SECOND: Morrison
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Hedgepeth, Lowery, Morrison,
Strickland and Chairman McCormick
Halbert recused
Ware was absent

APPROVED

17. **RESOLUTION AMENDING THE LIVING WAGE RATE FOR CITY OF MEMPHIS PART-TIME/TEMPORARY EMPLOYEES AGED 18 AND UP SHALL BE A MINIMUM OF TWELVE DOLLARS (\$12.00) PER HOUR EFFECTIVE JULY 1, 2008.** (Held from 3/18)

Chairman McCormick recognized the following person who spoke from the audience:

Amy Jones, 85 N. Cleveland St., Mphs, TN 38104

MOTION: Flinn
SECOND: Morrison
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland and Chairman McCormick
Ware was absent

APPROVED

18. **RESOLUTION TO AMEND THE FISCAL YEAR 2008 OPERATING BUDGET FOR POLICE SERVICES TO PURCHASE MEDIA CAMPAIGN FOR RECRUITING FOR POLICE OFFICERS FOR A TOTAL COST OF \$300,000.00 IN MATERIAL & SUPPLIES. MONIES TO BE TRANSFERRED FROM PERSONAL SERVICES.**

MOTION: Hedgepeth
SECOND: Ford
AYES: Boyd, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland and Chairman McCormick
Brown did not cast a vote
Ware was absent

APPROVED

19. **RESOLUTION AMENDING THE FY 2008 CAPITAL IMPROVEMENT BUDGET BY TRANSFERRING AN ALLOCATION AND APPROPRIATING \$1,659,205.00 FUNDED BY G.O. BONDS (STORM WATER) FROM DRAINAGE-ST, PROJECT NUMBER ST03006 TO WOLF RIVER BANK STABILIZATION, PROJECT NUMBER ST03093, FOR STABILIZATION OF THE NORTH AND SOUTH BANKS OF WOLF RIVER AND FOR A CONSTRUCTION CONTRACT WITH CHOCTAW TRANSPORTATION COMPANY, INC.**

MOTION: Morrison
 SECOND: Collins
 AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
 Morrison, Strickland and Chairman McCormick
 Ware was absent

APPROVED

20. **ORDINANCE AMENDING THE ZONING TEXT AMENDMENT ON
 NONCONFORMING USES, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5242
 Case No. ZTA 07-002cc

Applicant: Office of Planning & Development

Request: Amend Section (B) (6) 16-116-2(F) to specify that cessation of use date to loss of
 license or permit for 365 consecutive days terminates a nonconforming use

LUCB and OPD recommendation: APPROVAL

MOTION: Lowery
 SECOND: Morrison
 AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
 Morrison, Strickland and Chairman McCormick
 Ware was absent

APPROVED

21. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE
 SOUTHSIDE OF U.S. HIGHWAY 70 (SUMMER AVENUE); +914.86 FEET EAST OF
 BRUNSWICK ROAD, CONTAINING 0.511 ACRE IN THE AGRICULTURAL (AG)
 DISTRICT.**

Case No. SUP 08-202cc

Applicant: SBA Communications Corp.
 Shawn Massey, CCIM – Representative

Request: Remove existing 110' telecommunication tower and replace with
 a new 150' tower

LUCB and OPD recommendation: APPROVAL, with conditions

No Opposition at LUCB; No Public Hearing Required

MOTION: Lowery
 SECOND: Hedgepeth

AYES: Boyd, Brown, Collins, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland and Chairman McCormick
Flinn recused
Ware was absent

APPROVED

22. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED APPROXIMATELY 123 FEET SOUTHEAST OF THE INTERSECTION OF APPLING AND MACON ROADS, CONTAINING 14 ACRES IN THE AGRICULTURAL (AG) DISTRICT.**

Case No. PD 07-344cc

Applicant: Teranksy, LLC
SR Consulting, LLC – Representative

Request: A mixed use planned development consisting of 48 single family residential lots (minimum lot size = +4,428 sq. ft.) and two common open space lots in Area A and commercial uses in Area B

LUCB recommendation: APPROVAL, with conditions

OPD recommendation: REJECTION

MOTION: Lowery

SECOND: Hedgepeth

AYES: Boyd, Brown, Collins, Flinn, Ford, Halbert, Hedgepeth, Lowery, Morrison,
Strickland and Chairman McCormick
Fullilove did not cast a vote
Ware was absent

APPROVED

23. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE WEST SIDE OF N. THOMAS STREET; +/-98 FEET NORTH OF T.M. HENDERSON AVENUE, CONTAINING 0.85 ACRE IN THE MIXED-USE (MU) DISTRICT.**

Case No. PD 08-301

Applicant: Edgar T. Miller
A. Carmichael Johnson – Representative

Request: Planned development to allow a funeral home establishment

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery

SECOND: McCormick
AYES: Boyd, Brown, Collins, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland and Chairman McCormick
Ford recused
Ware was absent

APPROVED

24. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE BEGINNING ON THE NORTH SIDE OF CLEMENTINE ROAD AT ITS WESTERN TERMINUS AND PROCEEDING NORTHERLY 386.78 FEET THEREFROM, CONTAINING 0.355 ACRE IN THE DUPLEX RESIDENTIAL (R-D) AND MULTIPLE DWELLING RESIDENTIAL (R-ML) DISTRICTS.**

Case No. SAC 05-614

Applicant: ProUnited Realtors, LLC
Brunell Gooden – Representative

Request: One (1) year time extension

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: Morrison
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland and Chairman McCormick
Ware was absent

APPROVED

25. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED BETWEEN LINDEN AVENUE AND PONTOTOC STREET, CONTAINING 0.343 ACRE IN THE SOUTH MAIN SPECIAL DISTRICT WITH HISTORIC PRESERVATION (HP) OVERLAY ON WEST HALF OF RIGHT-OF-WAY.**

Case No. SAC 06-610

Applicant: Memphis Development A, LLC

Request: One (1) year time extension

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: Morrison
AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland
and Chairman McCormick

Halbert and Lowery did not cast a vote
Ware was absent

APPROVED

26. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE BEGINNING WEST OF N. FRONT AND EAST OF ILLINOIS CENTRAL RAILROAD, CONTAINING 9,801 SQUARE FEET IN THE HEAVY INDUSTRIAL (I-H) DISTRICT.**

Case No. SAC 07-619

Applicant: Craig Mednikow

Request: Street Closure

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery

SECOND: Morrison

AYES: Boyd, Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland and Chairman McCormick
Ware was absent

APPROVED

27. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE BEGINNING AT THE 2ND ALLEY SOUTH OF MILL STREET AND WEST OF FRONT STREET, CONTAINING 2,450 SQUARE FEET IN THE HEAVY INDUSTRIAL (I-H) DISTRICT.**

Case No. SAC 07-620

Applicant: Craig Mednikow

Request: Street Closure

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery

SECOND: Fullilove

AYES: Brown, Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland and Chairman McCormick
Boyd did not cast a vote
Ware was absent

APPROVED

28. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON STONEBROOK CIRCLE BEGINNING ON THE WEST SIDE OF SANDBROOK STREET AND EXTENDING +491 FEET, CONTAINING 40,118 SQUARE FEET IN THE LIGHT INDUSTRIAL (I-L) DISTRICT.**

Case No. SAC 07-621

Applicant: Superior Investment, Inc.
Crown Enterprises, Inc. – Representative

Request: Street Closure

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Lowery
SECOND: Morrison
AYES: Flinn, Ford, Halbert, Hedgepeth, Lowery, Morrison and Chairman McCormick
NAYS: Brown, Collins and Fullilove
Boyd and Strickland did not cast a vote
Ware was absent

APPROVED

30. **JOINT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS AND MEMPHIS CITY COUNCIL ESTABLISHING THE MEMPHIS AND SHELBY COUNTY PUBLIC SAFETY COMMISSION (MSPSC) TO ASSIST WITH THE NEGOTIATION OF INTERLOCAL AGREEMENTS ACCEPTABLE TO THE SHELBY COUNTY SHERIFF'S DEPARTMENT AND THE MEMPHIS POLICE DEPARTMENT TO FUNCTIONALLY CONSOLIDATE DUPLICATIVE UNITS, SERVICES AND/OR FUNCTION.**

MOTION: Hedgepeth
SECOND: Flinn
AYES: Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, and Chairman McCormick
Boyd, Brown and Lowery did not cast a vote
Ware was absent

APPROVED

31. **RESOLUTION CREATING A NEGOTIATING TEAM TO REVIEW OFFERS RELATIVE TO THE FUTURE USE OF THE PYRAMID.**

MOTION: Flinn – Amend to 30 days instead of 90 days
SECOND: Ford
AYES: Collins, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland and Chairman McCormick

Boyd and Brown did not cast a vote
Ware was absent

APPROVED, as amended

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman McCormick recognized the following people who spoke from the audience:

Walter Broady, III, 4256 Ledbetter Cove, Mphs, TN 38109

Charles W. Farmer, 4611 Buffer Dr., Mphs, TN 38128

Ray E. Smith, 4817 Fairley, Mphs, TN 38109

ADJOURNED MEETING AT 5:35 P.M.

.....

Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records